

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOSEPH JAMILOSA, APPELLANT.

G.R. NO. 169076. January 27, 2007

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is an appeal from the Decision[1] of the Regional Trial Court (RTC) of Quezon City in Criminal Case No. Q-97-72769 convicting appellant Joseph Jamilosa of large scale illegal recruitment under Sections 6 and 7 of Republic Act (R.A.) No. 8042, and sentencing him to life imprisonment and to pay a P500,000.00 fine.

The Information charging appellant with large scale illegal recruitment was filed by the Senior State Prosecutor on August 29, 1997. The inculpatory portion of the Information reads:

That sometime in the months of January to February, 1996, or thereabout in the City of Quezon, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, representing to have the capacity, authority or license to contract, enlist and deploy or transport workers for overseas employment, did then and there, willfully, unlawfully and criminally recruit, contract and promise to deploy, for a fee the herein complainants, namely, Haide R. Ruallo, Imelda D. Bamba, Geraldine M. Lagman and Alma E. Singh, for work or employment in Los Angeles, California, U.S.A. in Nursing Home and Care Center without first obtaining the required license and/or authority from the Philippine Overseas Employment Administration (POEA).

Contrary to law.[2]

On arraignment, the appellant, assisted by counsel, pleaded not guilty to the charge.

The case for the prosecution, as synthesized by the Court of Appeals (CA), is as follows:

The prosecution presented three (3) witnesses, namely: private complainants Imelda D. Bamba, Geraldine M. Lagman and Alma E. Singh.

Witness Imelda D. Bamba testified that on January 17, 1996, she met the appellant in Cubao, Quezon City on board an aircon bus. She was on her way to Shoemart (SM), North EDSA, Quezon City where she was working as a company nurse. The appellant was seated beside her and introduced himself as a recruiter of workers for employment abroad. The appellant told her that his sister is a head nurse in a nursing home in Los Angeles, California, USA and he could help her get employed as a nurse at a monthly salary of Two Thousand US Dollars (\$2,000.00) and that she could leave in two (2) weeks time. He further averred that he has connections with the US Embassy, being a US Federal Bureau of Investigation (FBI) agent on official mission in the Philippines for one month. According to the appellant, she has to pay the amount of US\$300.00 intended for the US consul. The appellant gave his pager number and instructed her to contact him if she is interested to apply for a nursing job abroad.

On January 21, 1996, the appellant fetched her at her office. They then went to her house where she gave him the photocopies of her transcript of records, diploma, Professional Regulatory Commission (PRC) license and other credentials. On January 28 or 29, 1996, she handed to the appellant the amount of US\$300.00 at the

McDonalds outlet in North EDSA, Quezon City, and the latter showed to her a photocopy of her supposed US visa. The appellant likewise got several pieces of jewelry which she was then selling and assured her that he would sell the same at the US embassy. However, the appellant did not issue a receipt for the said money and jewelry. Thereafter, the appellant told her to resign from her work at SM because she was booked with Northwest Airlines and to leave for Los Angeles, California, USA on February 25, 1996.

The appellant promised to see her and some of his other recruits before their scheduled departure to hand to them their visas and passports; however, the appellant who was supposed to be with them in the flight failed to show up. Instead, the appellant called and informed her that he failed to give the passport and US visa because he had to go to the province because his wife died. She and her companions were not able to leave for the United States. They went to the supposed residence of the appellant to verify, but nobody knew him or his whereabouts. They tried to contact him at the hotel where he temporarily resided, but to no avail. They also inquired from the US embassy and found out that there was no such person connected with the said office. Thus, she decided to file a complaint with the National Bureau of Investigation (NBI).

Prosecution witness Geraldine Lagman, for her part, testified that she is a registered nurse by profession. In the morning of January 22, 1996, she went to SM North EDSA, Quezon City to visit her cousin Imelda Bamba. At that time, Bamba informed her that she was going to meet the appellant who is an FBI agent and was willing to help nurses find a job abroad. Bamba invited Lagman to go with her. On the same date at about 2:00 o'clock in the afternoon, she and Bamba met the appellant at the SM Fast-Food Center, Basement, North EDSA, Quezon City. The appellant convinced them of his ability to send them abroad and told them that he has a sister in the United States. Lagman told the appellant that she had no working experience in any hospital but the appellant assured her that it is not necessary to have one. The appellant asked for US\$300.00 as payment to secure an American visa and an additional amount of Three Thousand Four Hundred Pesos (P3,400.00) as processing fee for other documents.

On January 24, 1996, she and the appellant met again at SM North EDSA, Quezon City wherein she handed to the latter her passport and transcript of records. The appellant promised to file the said documents with the US embassy. After one (1) week, they met again at the same place and the appellant showed to her a photocopy of her US visa. This prompted her to give the amount of US\$300.00 and two (2) bottles of Black Label to the appellant. She gave the said money and liquor to the appellant without any receipt out of trust and after the appellant promised her that he would issue the necessary receipt later. The appellant even went to her house, met her mother and uncle and showed to them a computer printout from Northwest Airlines showing that she was booked to leave for Los Angeles, California, USA on February 25, 1996.

Four days after their last meeting, Extelcom, a telephone company, called her because her number was appearing in the appellant's cellphone documents. The caller asked if she knew him because they were trying to locate him, as he was a swindler who failed to pay his telephone bills in the amount of P100,000.00. She became suspicious and told Bamba about the matter. One (1) week before her scheduled flight on February 25, 1996, they called up the appellant but he said he could not meet them because his mother passed away. The appellant never showed up, prompting her to file a complaint with the NBI for illegal recruitment.

Lastly, witness Alma Singh who is also a registered nurse, declared that she first met the appellant on February 13, 1996 at SM North EDSA, Quezon City when Imelda Bamba introduced the latter to her. The appellant told her that he is an undercover agent of the FBI and he could fix her US visa as he has a contact in the US embassy. The appellant told her that he could help her and her companions Haidee Raullo, Geraldine Lagman and Imelda Bamba find jobs in the US as staff nurses in home care centers.

On February 14, 1996 at about 6:30 in the evening, the appellant got her passport and picture. The following day or on February 15, 1996, she gave the appellant the amount of US\$300.00 and a bottle of cognac as "grease money" to facilitate the processing of her visa. When she asked for a receipt, the appellant assured her that there is no need for one because she was being directly hired as a nurse in the United States.

She again met the appellant on February 19, 1996 at the Farmers Plaza and this time, the appellant required her to submit photocopies of her college diploma, nursing board certificate and PRC license. To show his sincerity, the appellant insisted on meeting her father. They then proceeded to the office of her father in Barrio Ugong, Pasig City and she introduced the appellant. Thereafter, the appellant asked permission from her father to allow her to go with him to the Northwest Airlines office in Ermita, Manila to reserve airline tickets. The appellant was able to get a ticket confirmation and told her that they will meet again the following day for her to give P10,000.00 covering the half price of her plane ticket. Singh did not meet the appellant as agreed upon. Instead, she went to Bamba to inquire if the latter gave the appellant the same amount and found out that Bamba has not yet given the said amount. They then paged the appellant through his beeper and told him that they wanted to see him. However, the appellant avoided them and reasoned out that he could not meet them as he had many things to do. When the appellant did not show up, they decided to file a complaint for illegal recruitment with the NBI.

The prosecution likewise presented the following documentary evidence:

Exh. "A" – Certification dated February 23, 1998 issued by Hermogenes C. Mateo, Director II, Licensing Branch, POEA.

Exh. "B" – Affidavit of Alma E. Singh dated February 23, 1996.[3]

On the other hand, the case for the appellant, as culled from his Brief, is as follows:

Accused JOSEPH JAMILOSA testified on direct examination that he got acquainted with Imelda Bamba inside an aircon bus bound for Caloocan City when the latter borrowed his cellular phone to call her office at Shoe Mart (SM), North Edsa, Quezon City. He never told Bamba that he could get her a job in Los Angeles, California, USA, the truth being that she wanted to leave SM as company nurse because she was having a problem thereat. Bamba called him up several times, seeking advice from him if Los Angeles, California is a good place to work as a nurse. He started courting Bamba and they went out dating until the latter became his girlfriend. He met Geraldine Lagman and Alma Singh at the Shoe Mart (SM), North Edsa, Quezon City thru Imelda Bamba. As complainants were all seeking advice on how they could apply for jobs abroad, lest he be charged as a recruiter, he made Imelda Bamba, Geraldine Lagman and Alma Singh sign separate certifications on January 17, 1996 (Exh. "2"), January 22, 1996 (Exh. "4"), and February 19, 1996 (Exh. "3"), respectively, all to the effect that he never recruited them and no money was involved. Bamba filed an Illegal Recruitment case against him because they quarreled and separated. He came to know for the first time that charges were filed against him in September 1996 when a preliminary investigation was conducted by Fiscal Dañosos of the Department of Justice. (TSN, October 13, 1999, pp. 3-9 and TSN, December 8, 1999, pp. 2-9)[4]

On November 10, 2000, the RTC rendered judgment finding the accused guilty beyond reasonable doubt of the crime charged.[5] The fallo of the decision reads:

WHEREFORE, judgment is hereby rendered finding accused guilty beyond reasonable doubt of Illegal Recruitment in large scale; accordingly, he is sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00), plus costs.

Accused is ordered to indemnify each of the complainants, Imelda Bamba, Geraldine Lagman and Alma Singh the amount of Three Hundred US Dollars (\$300.00).

SO ORDERED.[6]

In rejecting the defenses of the appellant, the trial court declared:

To counter the version of the prosecution, accused claims that he did not recruit the complainants for work abroad but that it was they who sought his advice relative to their desire to apply for jobs in Los Angeles, California, USA and thinking that he might be charged as a recruiter, he made them sign three certifications, Exh. "2," "3" and "4," which in essence state that accused never recruited them and that there was no money

involved.

Accused's contention simply does not hold water. Admittedly, he executed and submitted a counter-affidavit during the preliminary investigation at the Department of Justice, and that he never mentioned the aforesaid certifications, Exhibits 2, 3 and 4 in said counter-affidavit. These certifications were allegedly executed before charges were filed against him. Knowing that he was already being charged for prohibited recruitment, why did he not bring out these certifications which were definitely favorable to him, if the same were authentic. It is so contrary to human nature that one would suppress evidence which would belie the charge against him.

Denials of the accused can not stand against the positive and categorical narration of each complainant as to how they were recruited by accused who had received some amounts from them for the processing of their papers. Want of receipts is not fatal to the prosecution's case, for as long as it has been shown, as in this case, that accused had engaged in prohibited recruitment. (People v. Pabalan, 262 SCRA 574).

That accused is neither licensed nor authorized to recruit workers for overseas employment, is shown in the Certification issued by POEA, Exh. "A."

In fine, the offense committed by the accused is Illegal Recruitment in large scale, it having been committed against three (3) persons, individually.[7]

Appellant appealed the decision to this Court on the following assignment of error:

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME OF ILLEGAL RECRUITMENT IN LARGE SCALE DESPITE THE FACT THAT THE LATTER'S GUILT WAS NOT PROVED BEYOND REASONABLE DOUBT BY THE PROSECUTION.[8]

According to appellant, the criminal Information charging him with illegal recruitment specifically mentioned the phrase "for a fee," and as such, receipts to show proof of payment are indispensable. He pointed out that the three (3) complaining witnesses did not present even one receipt to prove the alleged payment of any fee. In its eagerness to cure this "patent flaw," the prosecution resorted to presenting the oral testimonies of complainants which were "contrary to the ordinary course of nature and ordinary habits of life [under Section 3(y), Rule 131 of the Rules on Evidence] and defied credulity." Appellant also pointed out that complainants' testimony that they paid him but no receipts were issued runs counter to the presumption under Section [3](d), Rule 131 of the Rules on Evidence that persons take ordinary care of their concern. The fact that complainants were not able to present receipts lends credence to his allegation that it was they who sought advice regarding their desire to apply for jobs in Los Angeles, California, USA. Thus, thinking that he might be charged as a recruiter, he made them sign three (3) certifications stating that he never recruited them and there was no money involved. On the fact that the trial court disregarded the certifications due to his failure to mention them during the preliminary investigation at the Department of Justice (DOJ), appellant pointed out that there is no provision in the Rules of Court which bars the presentation of evidence during the hearing of the case in court. He also pointed out that the counter-affidavit was prepared while he was in jail "and probably not assisted by a lawyer." [9]

Appellee, through the Office of the Solicitor General (OSG), countered that the absence of receipts signed by appellant acknowledging receipt of the money and liquor from the complaining witnesses cannot defeat the prosecution and conviction for illegal recruitment. The OSG insisted that the prosecution was able to prove the guilt of appellant beyond reasonable doubt via the collective testimonies of the complaining witnesses, which the trial court found credible and deserving of full probative weight. It pointed out that appellant failed to prove any ill-motive on the part of the complaining witnesses to falsely charge him of illegal recruitment.

On appellant's claim that the complaining witness Imelda Bamba was his girlfriend, the OSG averred:

Appellant's self-serving declaration that Imelda is his girlfriend and that she filed a complaint for illegal

recruitment after they quarreled and separated is simply preposterous. No love letters or other documentary evidence was presented by appellant to substantiate such claim which could be made with facility. Imelda has no reason to incriminate appellant except to seek justice. The evidence shows that Alma and Geraldine have no previous quarrel with appellant. Prior to their being recruited by appellant, Alma and Geraldine have never met appellant. It is against human nature and experience for private complainants to conspire and accuse a stranger of a most serious crime just to mollify their hurt feelings. (*People v. Coral*, 230 SCRA 499, 510 [1994])[10]

The OSG posited that the appellant's reliance on the certifications[11] purportedly signed by the complaining witnesses is misplaced, considering that the certifications are barren of probative weight.

On February 23, 2005, the Court resolved to transfer the case to the CA.[12] On June 22, 2005, the CA rendered judgment affirming the decision of the RTC.[13]

The OSG filed a Supplemental Brief, while the appellant found no need to file one.

The appeal has no merit.

Article 13(b) of the Labor Code of the Philippines defines recruitment and placement as follows:

(b) "Recruitment and placement" refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not. Provided, That any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement.

Section 6 of R.A. No. 8042 defined when recruitment is illegal:

SEC. 6. Definition. – For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: Provided, That any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. x x x

Any recruitment activities to be undertaken by non-licensee or non-holder of contracts shall be deemed illegal and punishable under Article 39 of the Labor Code of the Philippines.[14] Illegal recruitment is deemed committed in large scale if committed against three (3) or more persons individually or as a group.[15]

To prove illegal recruitment in large scale, the prosecution is burdened to prove three (3) essential elements, to wit: (1) the person charged undertook a recruitment activity under Article 13(b) or any prohibited practice under Article 34 of the Labor Code; (2) accused did not have the license or the authority to lawfully engage in the recruitment and placement of workers; and (3) accused committed the same against three or more persons individually or as a group.[16] As gleaned from the collective testimonies of the complaining witnesses which the trial court and the appellate court found to be credible and deserving of full probative weight, the prosecution mustered the requisite quantum of evidence to prove the guilt of accused beyond reasonable doubt for the crime charged. Indeed, the findings of the trial court, affirmed on appeal by the CA, are conclusive on this Court absent evidence that the tribunals ignored, misunderstood, or misapplied substantial fact or other circumstance.

The failure of the prosecution to adduce in evidence any receipt or document signed by appellant where he acknowledged to have received money and liquor does not free him from criminal liability. Even in the absence of money or other valuables given as consideration for the "services" of appellant, the latter is considered as being

engaged in recruitment activities.

It can be gleaned from the language of Article 13(b) of the Labor Code that the act of recruitment may be for profit or not. It is sufficient that the accused promises or offers for a fee employment to warrant conviction for illegal recruitment.[17] As the Court held in *People v. Sagaydo*:[18]

Such is the case before us. The complainants parted with their money upon the prodding and enticement of accused-appellant on the false pretense that she had the capacity to deploy them for employment abroad. In the end, complainants were neither able to leave for work abroad nor get their money back.

The fact that private complainants Rogelio Tibeb and Jessie Bolinao failed to produce receipts as proof of their payment to accused-appellant does not free the latter from liability. The absence of receipts cannot defeat a criminal prosecution for illegal recruitment. As long as the witnesses can positively show through their respective testimonies that the accused is the one involved in prohibited recruitment, he may be convicted of the offense despite the absence of receipts.[19]

Appellant's reliance on the certifications purportedly signed by the complaining witnesses Imelda Bamba, Alma Singh and Geraldine Lagman[20] is misplaced. Indeed, the trial court and the appellate court found the certifications barren of credence and probative weight. We agree with the following pronouncement of the appellate court:

Anent the claim of the appellant that the trial court erred in not giving weight to the certifications (Exhs. "2," "3" & "4") allegedly executed by the complainants to the effect that he did not recruit them and that no money was involved, the same deserves scant consideration.

The appellant testified that he was in possession of the said certifications at the time the same were executed by the complainants and the same were always in his possession; however, when he filed his counter-affidavit during the preliminary investigation before the Department of Justice, he did not mention the said certifications nor attach them to his counter-affidavit.

We find it unbelievable that the appellant, a college graduate, would not divulge the said certifications which would prove that, indeed, he is not an illegal recruiter. By failing to present the said certifications prior to the trial, the appellant risks the adverse inference and legal presumption that, indeed, such certifications were not genuine. When a party has it in his possession or power to produce the best evidence of which the case in its nature is susceptible and withholds it, the fair presumption is that the evidence is withheld for some sinister motive and that its production would thwart his evil or fraudulent purpose. As aptly pointed out by the trial court:

"x x x These certifications were allegedly executed before charges were filed against him. Knowing that he was already being charged for prohibited recruitment, why did he not bring out these certifications which were definitely favorable to him, if the same were authentic. It is so contrary to human nature that one would suppress evidence which would belie the charge against him." (Emphasis Ours)[21]

At the preliminary investigation, appellant was furnished with copies of the affidavits of the complaining witnesses and was required to submit his counter-affidavit. The complaining witnesses identified him as the culprit who "recruited" them. At no time did appellant present the certifications purportedly signed by the complaining witnesses to belie the complaint against him. He likewise did not indicate in his counter-affidavit that the complaining witnesses had executed certifications stating that they were not recruited by him and that he did not receive any money from any of them. He has not come forward with any valid excuse for his inaction. It was only when he testified in his defense that he revealed the certifications for the first time. Even then, appellant lied when he claimed that he did not submit the certifications because the State Prosecutor did not require him to submit any counter-affidavit, and that he was told that the criminal complaint would be dismissed on account of

the failure of the complaining witnesses to appear during the preliminary investigation. The prevarications of appellant were exposed by Public Prosecutor Pedro Catral on cross-examination, thus:

Q Mr. Witness, you said that a preliminary investigation [was] conducted by the Department of Justice through State Prosecutor Dañosos. Right?

A Yes, Sir.

Q Were you requested to file your Counter-Affidavit?

A Yes, Sir. I was required.

Q Did you file your Counter-Affidavit?

A Yes, Sir, but he did not accept it.

Q Why?

A Because he said “never mind” because the witness is not appearing so he dismissed the case.

Q Are you sure that he did not accept your Counter-Affidavit, Mr. Witness?

A I don’t know of that, Sir.

Q If I show you that Counter-Affidavit you said you prepared, will you be able to identify the same, Mr. Witness?

A Yes, Sir.

Q I will show you the Counter-Affidavit dated June 16, 1997 filed by one Joseph J. Jamilosa, will you please go over this and tell if this is the same Counter-Affidavit you said you prepared and you are going to file with the investigating state prosecutor?

A Yes, Sir. This the same Counter-Affidavit.

Q There is a signature over the typewritten name Joseph J. Jamilosa, will you please go over this and tell this Honorable Court if this is your signature, Mr. Witness?

A Yes, Sir. This is my signature.

Q During the direct examination you were asked to identify [the] Certification as Exh. “2” dated January 17, 1996, allegedly issued by Bamba, one of the complainants in this case, when did you receive this Certification issued by Imelda Bamba, Mr. Witness?

A That is the date, Sir.

Q You mean the date appearing in the Certification.

A Yes, Sir.

Q Where was this handed to you by Imelda Bamba, Mr. Witness?

A At SM North Edsa, Sir.

Q During the direct examination you were also asked to identify a Certification Exh. “3” for the defense dated February 19, 1996, allegedly issued by Alma Singh, one of the complainants in this case, will you please go over this and tell us when did Alma Singh allegedly issue to you this Certification?

A On February 19, 1996, Sir.

Q And also during the direct examination, you were asked to identify a Certification which was already marked as Exh. “4” for the defense dated January 22, 1996 allegedly issued by Geraldine M. Lagman, one of the complainants in this case, will you please tell the court when did Geraldine Lagman give you this Certification?

A January 22, 1996, Sir.

Q During that time, January 22, 1996, January 17, 1996 and February 19, 1996, you were in possession of all

these Certification. Correct, Mr. Witness?

A Yes, Sir.

Q These were always in your possession. Right?

A Yes, Sir, with my papers.

Q Do you know when did the complainants file cases against you?

A I don't know, Sir.

Q Alright. I will read to you this Counter-Affidavit of yours, and I quote "I, Joseph Jamilosa, of legal age, married and resident of Manila City Jail, after having duly sworn to in accordance with law hereby depose and states that: 1) the complainants sworn under oath to the National Bureau of Investigation that I recruited them and paid me certain sums of money assuming that there is truth in those allegation of this (sic) complainants. The charge filed by them should be immediately dismissed for certain lack of merit in their Sworn Statement to the NBI Investigator; 2) likewise, the complainants' allegation is not true and I never recruited them to work abroad and that they did not give me money, they asked me for some help so I [helped] them in assisting and processing the necessary documents, copies for getting US Visa; 3) the complainant said under oath that they can show a receipt to prove that they can give me sums or amount of money. That is a lie. They sworn (sic), under oath, that they can show a receipt that I gave to them to prove that I got the money from them. I asked the kindness of the state prosecutor to ask the complainants to show and produce the receipts that I gave to them that was stated in the sworn statement of the NBI; 4) the allegation of the complainants that the charges filed by them should be dismissed because I never [received] any amount from them and they can not show any receipt that I gave them," Manila City Jail, Philippines, June 16, 1997. So, Mr. Witness, June 16, 1997 is the date when you prepared this. Correct?

A Yes, Sir.

Q Now, my question to you, Mr. Witness, you said that you have with you all the time the Certification issued by [the] three (3) complainants in this case, did you allege in your Counter-Affidavit that this Certification you said you claimed they issued to you?

A I did not say that, Sir.

Q So, it is not here in your Counter-Affidavit?

A None, Sir.

Q What is your educational attainment, Mr. Witness?

A I am a graduate of AB Course Associate Arts in 1963 at the University of the East.

Q You said that the State Prosecutor of the Department of Justice did not accept your Counter-Affidavit, are you sure of that, Mr. Witness?

A Yes, Sir.

Q Did you receive a copy of the dismissal which you said it was dismissed?

A No, Sir. I did not receive anything.

Q Did you receive a resolution from the Department of Justice?

A No, Sir.

Q Did you go over the said resolution you said you received here?

A I just learned about it now, Sir.

Q Did you read the content of the resolution?

A Not yet, Sir. It's only now that I am going to read.

COURT

Q You said it was dismissed. Correct?

A Yes, Your Honor.

Q Did you receive a resolution of this dismissal?

A No, Your Honor.

FISCAL CATRAL

Q What did you receive?

A I did not receive any resolution, Sir. It's just now that I learned about the finding.

Q You said you learned here in court, did you read the resolution filed against you, Mr. Witness?

A I did not read it, Sir.

Q Did you read by yourself the resolution made by State Prosecutor Dañosos, Mr. Witness?

A Not yet, Sir.

Q What did you take, if any, when you received the subpoena from this court?

A I was in court already when I asked Atty. Usita to investigate this case.

Q You said a while ago that your Affidavit was not accepted by State Prosecutor Dañosos. Is that correct?

A Yes, Sir.

Q Will you please read to us paragraph four (4), page two (2) of this resolution of State Prosecutor Dañosos.
(witness reading par. 4 of the resolution)

Alright. What did you understand of this paragraph 4, Mr. Witness?

A Probably, guilty to the offense charge.[22]

It turned out that appellant requested the complaining witnesses to sign the certifications merely to prove that he was settling the cases:

COURT

Q These complainants, why did you make them sign in the certifications?

A Because one of the complainants told me to sign and they are planning to sue me.

Q You mean they told you that they are filing charges against you and yet you [made] them sign certifications in your favor, what is the reason why you made them sign?

A To prove that I'm settling this case.

Q Despite the fact that they are filing cases against you and yet you were able to make them sign certifications?

A Only one person, Your Honor, who told me and he is not around.

Q But they all signed these three (3) certifications and yet they filed charges against you and yet you made them sign certifications in your favor, so what is the reason why you made them sign?(witness can not answer)[23]

The Court notes that the trial court ordered appellant to refund US\$300.00 to each of the complaining witnesses. The ruling of the appellate court must be modified. Appellant must pay only the peso equivalent of US\$300.00 to each of the complaining witnesses.

IN LIGHT OF ALL THE FOREGOING, the appeal is DISMISSED. The Decision of the Court of Appeals affirming the conviction of Joseph Jamilosa for large scale illegal recruitment under Sections 6 and 7 of Republic Act No. 8042 is AFFIRMED WITH MODIFICATION. The appellant is hereby ordered to refund to each of the complaining witnesses the peso equivalent of US\$300.00. Costs against appellant.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Chico-Nazario, JJ., concur.

[1] Penned by Judge Lydia Querubin Layosa; CA rollo, pp. 51-56.

[2] Records, p. 7.

[3] CA rollo, pp. 130-135.

[4] Id. at 44.

[5] Id. at 51-56.

[6] Id. at 56.

[7] Id. at 55.

[8] Id. at 45.

[9] Id. at 46-48.

[10] Id. at 99-100.

[11] Exhibits “2,” “3” and “4,” records, pp. 189-191.

[12] CA rollo, p. 127.

[13] Id. at 129-141.

[14] LABOR CODE, Art. 38(a).

[15] LABOR CODE, Art. 38(b).

[16] *People v. Dionisio*, 425 Phil. 651, 665 (2002).

[17] *People v. Dela Piedra*, 403 Phil. 31, 51 (2001).

[18] 395 Phil. 538 (2000).

[19] Id. at 549.

[20] Exhibits “2,” “3” and “4,” supra note 11.

[21] Rollo, pp. 13-14.

[22] TSN, December 8, 1999, pp. 11-15.

[23] TSN, March 8, 2000, p. 6.

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